

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EMILEE HOLLINGSHEAD and
BERNADETTE ST. GEORGE,

Plaintiffs,

v.

KATHRYN PELKEY and INNER
CONVERSATION, LLC,

Defendants.

DECISION & ORDER

24-CV-6507EAW

Plaintiffs Emilee Hollingshead and Bernadette St. George (collectively, “plaintiffs”) commenced this federal action based upon diversity jurisdiction against defendants Kathryn Pelkey and Inner Conversation, LLC, (collectively, “defendants”) for unpaid wages and retaliation pursuant to the Ohio Minimum Fair Wage Standards Act, ORC § 4111.01, *et seq.*, and the California Labor Code and Industrial Welfare Commission Wage Order No. 9-2001. (Docket # 1). On September 9, 2024, defendant Kathryn Pelkey, acting *pro se*, filed an answer with counterclaims. (Docket # 7). The corporate defendant Inner Conversation, LLC, has not answered the complaint or otherwise appeared in this action.

Currently pending before the Court are several motions filed by Pelkey. The first motion requests an extension of time and certain litigation-related accommodations. (Docket # 9). Pelkey also requests permission to file documents electronically on the Court’s electronic filing system. (Docket # 12). Finally, Pelkey has requested the issuance of a non-party subpoena. (Docket # 11).

I. MOTION TO EXTEND

On September 9, 2024, Pelkey filed a motion seeking an extension of time to file an answer to the complaint. (Docket # 9). Pelkey's motion also requests that the Court permit her extended deadlines for legal filings and submissions based upon several medical diagnoses, including Attention Deficit Hyperactivity Disorder, Post-Traumatic Stress Disorder, and anxiety. (*Id.*). Of course, Pelkey has already answered the complaint, mooted any need for the requested extension. (Docket # 7). In addition, issues concerning scheduling will be addressed with the Court during the Rule 16 conference scheduled for November 12, 2024, at 11:00 a.m., during which Pelkey will have the opportunity to provide input concerning case deadlines.

To the extent that Pelkey's motion may be interpreted as a request to extend the deadline for Inner Conversation, LLC, to answer or otherwise respond to the complaint, that request is denied. Review of Pelkey's answer suggests that she intended to respond to the complaint on behalf of herself and the corporate defendant. However, corporations must be represented by a licensed attorney and are not permitted to proceed *pro se* in federal court. *Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 22 (2d Cir. 1983) (holding that a corporation must be represented by an attorney). Thus, Pelkey is unable to respond or otherwise request any relief on behalf of Inner Conversation, LLC. For these reasons, Pelkey's motion for an extension of deadlines on her behalf (**Docket # 9**) is **DENIED as MOOT**.

II. MOTION TO ELECTRONICALLY FILE

I turn next to Pelkey's request to file documents electronically. (Docket # 12).

Rule 5 of the Federal Rules of Civil Procedure provides that a *pro se* litigant "may file electronically only if allowed by court order or by local rule." Fed. R. Civ. P. 5(d)(3)(B)(i). The Local Rules of Civil Procedure incorporate by reference the Court's CM/ECF Administrative Procedures Guide ("the Guide"), which in turn sets forth the requirements and procedures for electronic filing. *See* W.D.N.Y. Local Rule 5.1(a). The Guide allows the Court in its discretion to "grant a *pro se* litigant who demonstrates a willingness and capability to file documents electronically, permission to register to do so." W.D.N.Y. Administrative Procedures Guide for Electronic Filing, Administrative Procedures.

On this record, I conclude that Pelkey has failed to demonstrate that "[s]he has the necessary technical and equipment requirements for e-filing." *See Foster v. Zones/E. Nfastructure Tech., Inc.*, 2022 WL 507343, *6 (W.D.N.Y. 2022). To assist Pelkey with her request, the Court will provide her with Instructions for Pro Se Electronic Filing and a sample Motion for Electronic Filing Privileges.¹ Pelkey should review and comply with the instructions and, if she can demonstrate that she meets the technical requirements for electronic filing, she may renew her request using the sample motion provided. At this time, Pelkey's motion for permission to electronically file documents on the Court's electronic filing system (**Docket # 12**) is **DENIED without prejudice to renewal**.

¹ Additional instructions for *pro se* electronic filing can be found at <https://www.nywd.uscourts.gov/pro-se-e-filing>.

III. MOTION FOR NON-PARTY SUBPOENA

Finally, I address the request for a non-party subpoena. (Docket # 11). As an initial matter, it appears that the request is made by Pelkey on behalf of the corporate defendant Inner Conversation, LLC. (*Id.*). As discussed above, Inner Conversation, LLC, has not yet appeared in this matter and, as a corporation, must be represented by licensed counsel. Accordingly, Pelkey is unable to make any requests on behalf of the corporate defendant, and the Court will not consider them.

In any event, the request for a non-party subpoena is premature at this stage as the parties have not yet appeared before the Court for the Rule 16 conference scheduled to occur on November 12, 2024, at 11:00 a.m. *See Akande v. Philips*, 386 F. Supp. 3d 281, 298 (W.D.N.Y. 2019) (denying motion for subpoena as premature). During the Rule 16 conference, the Court will discuss the deadlines for this litigation, including deadlines for fact discovery. Finally, the request fails to comply with the form requirements Rule 45 of the Federal Rules of Civil Procedure, which governs the issuance of non-party subpoenas.² *See* Fed. R. Civ. P. 45(a)(1)(A). For these reasons, the motion for issuance of a non-party subpoena (**Docket # 11**) is **DENIED without prejudice to renewal.**

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
October 7, 2024

² To the extent Pelkey intends to renew her request for non-party subpoenas at the appropriate time, the Court refers her to Form AO88B, available at: <https://www.nywd.uscourts.gov/forms-3>.